

Justice and Poverty Reduction



Safety, Security and Access to Justice for All

SOCHARA

Community Health

Library and Information Centre (CLIC)

Community Health Cell

85/2, 1st Main, Maruthi Nagar,

Madiwala, Bengaluru - 560 068.

Tel : 080 - 25531518

email : clic@sochara.org / chc@sochara.org

www.sochara.org

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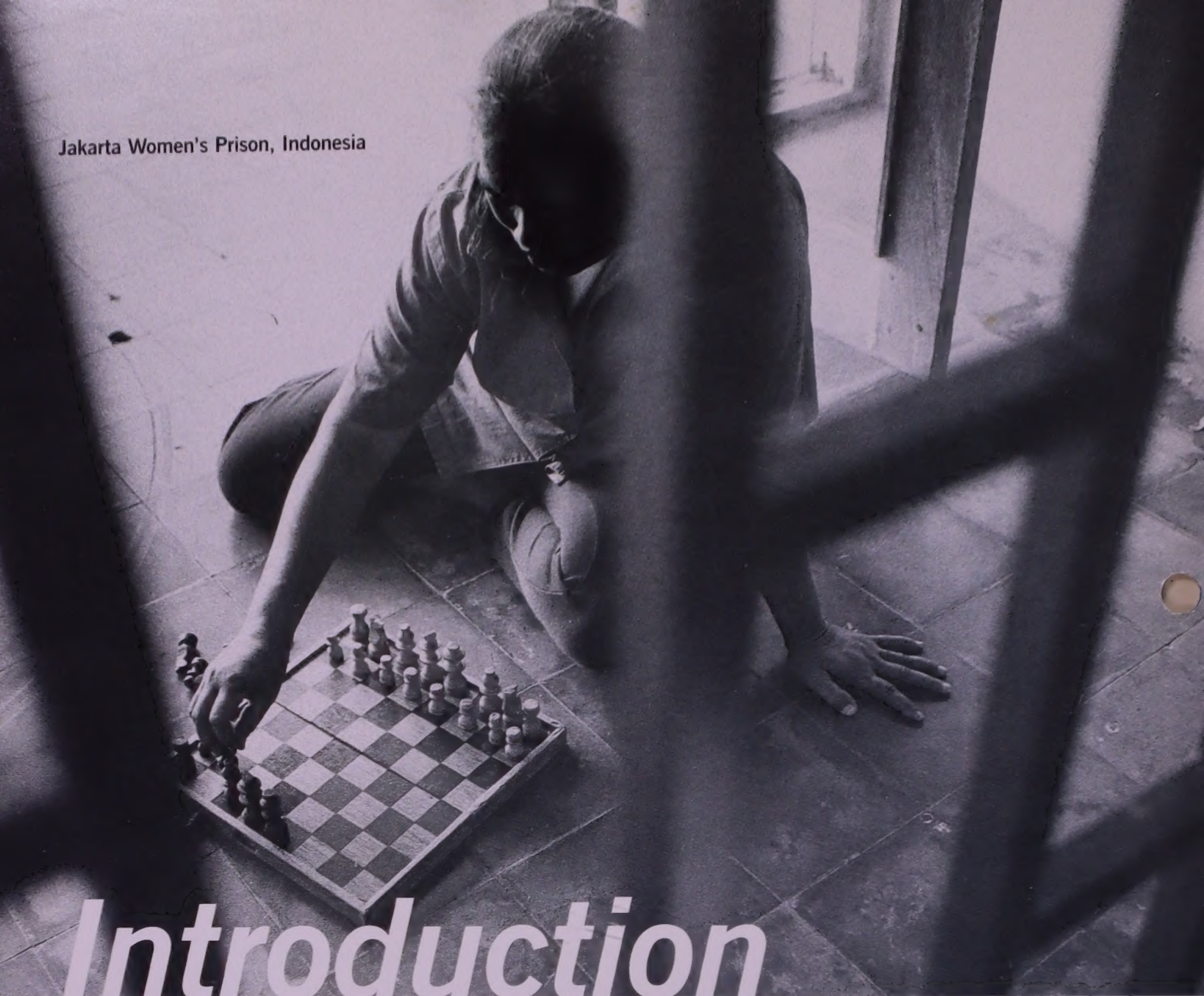
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Front cover photograph: Chain gang being counted after bathing, South East Asia



Introduction

In its White Paper *Eliminating World Poverty: A Challenge for the 21st Century*¹ the

Government recognises that poor people, particularly women, are the most vulnerable to all forms of crime and civil conflict, including domestic violence; and that in very many cases, formal justice systems fail to protect them.

In the Strategy Paper *Making Government Work for Poor People*² DFID recognises that in order to meet the International Development Targets for poverty reduction, it is necessary for governments to develop the capacity to ensure safety, security and access to justice for all.

Those papers set out DFID's broad policy on safety, security and accessible justice. This paper focuses more closely on the importance of justice systems for improving the lives of poor people, and the contribution which DFID can make³.

The objectives of safety, security and accessible justice strategies are:

- to make all people safe from violence and intimidation in their communities, homes, work and schools;
- to make people's property secure from theft and damage; and
- to ensure that everybody has access to systems which dispense justice fairly, speedily and without discrimination.

These objectives have been identified by developing countries as priorities within the Poverty Reduction Strategy Paper process. DFID is ready to support governments in poor countries to realise these objectives. Our approach is inclusive of all people but gives priority to the problems of poor and disadvantaged people.

¹ Please refer to End notes on page 20

Why safety security and accessible justice matters

While the cost of crime and its control is equivalent to 5% of GDP in the developed world, the figure rises to 14% in developing countries⁴. Poor people suffer more from crime. In South Africa for example, the victims of crimes of violence are predominantly poor people⁵.

The impact of crime on poor people is more serious. The reason is that when you have very little, losing what you have can bring with it real catastrophe. The theft of a bicycle can mean the loss of livelihood for the owner. Poor people also face real barriers in seeking the protection of the state. The police often abuse their powers and act oppressively. Courts are usually distant, expensive, and use procedures which are difficult to understand. Corruption is often widespread.

Failure of states to provide protection from

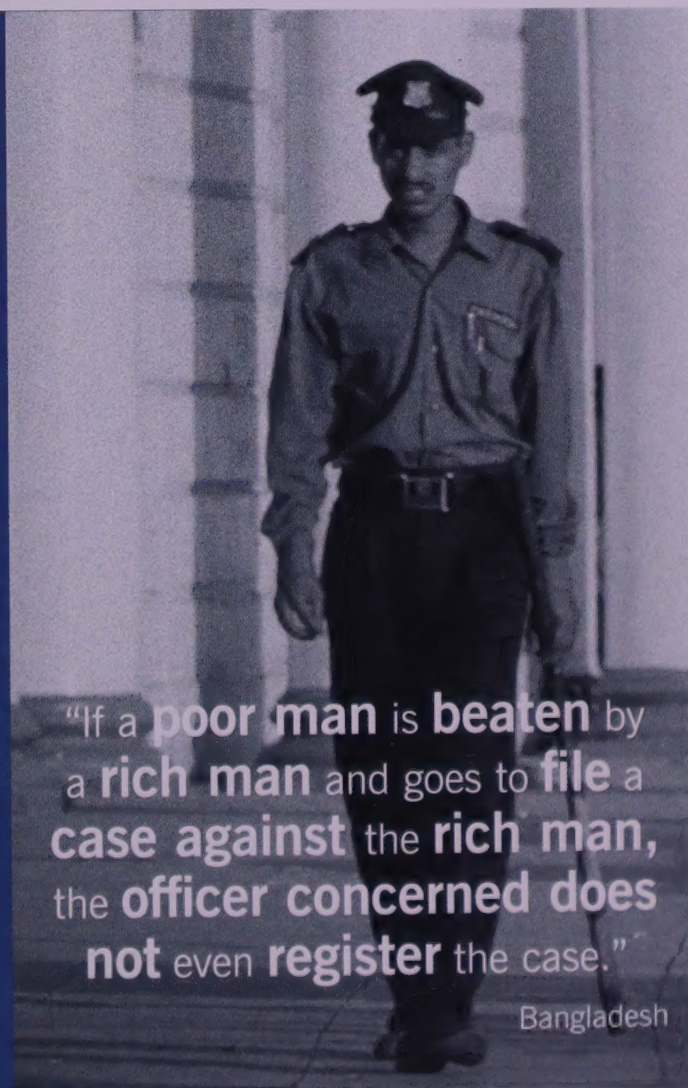
crime and access to justice impedes development. All people have a right to go about their lives in peace, free to make the most of their opportunities. They can only do so if the institutions of justice and law and order protect them in their daily lives. Poor farmers cannot be expected to invest in livestock or the cultivation of cash crops if their animals and produce are likely to be stolen. They are less likely to spend time and money improving their land if there is no way of resolving land disputes fairly.

States with poorly functioning legal systems and poor crime control are unattractive to investors so economic growth also suffers. The World Bank points out⁶ that crime and violence have emerged in recent years as major obstacles to development objectives – “Where crime is significant, we see economic growth down by 1-2 per cent”⁷.

Voices of the Poor

Recent participatory exercises, including the World Bank's 1999 *Consultations with the Poor*, which involved 20,000 poor people at 468 sites in 23 countries, have confirmed that safety, security and justice issues, and in particular insecurity caused by crime, are a major concern for poor people, ranking in importance with hunger, unemployment and lack of safe drinking water.

One striking finding in *Consultations*, was the extent to which the police and other authorities side with the rich and victimise poor people. There was astonishing consistency across communities in the negative impacts of the institutions of law and order on the lives of the poor. The police were the subject of many complaints, being perceived as lax, corrupt and often brutal. Poor women had added concerns about domestic violence and sexual abuse, and about the fact that these matters were often not taken seriously by the authorities.



“If a poor man is beaten by a rich man and goes to file a case against the rich man, the officer concerned does not even register the case.”

Bangladesh

Programme design

The design of programmes to improve safety, security and access to justice is the responsibility of governments working with civil society. DFID will support governments to develop programmes through:

- **Consultation:** The starting point should be to consult all the interested parties – and not least the poor and vulnerable themselves. What do poor people see as major safety and security issues? What do they think of the justice system, and in particular what do they see as its main

deficiencies? What are their priorities for reform? Governments need to understand how vulnerable poor people are to crime and violence, including abuse at the hands of the police; what access they have to both the formal and non-formal justice systems and how they find them; how aware they are of their legal rights and whether they have access to legal advice and information.

- **Sector-wide assessments:** Diagnosis is essential. The analysis has to be sector-wide in approach⁸ in order to identify the linkages between the different parts of the

Legal Sector Reform, Uganda

The Government of Uganda is planning the world's first sector-wide approach to justice/law and order reform.

- The initiative is a result of extensive consultation. The World Bank's Participatory Poverty Assessment, together with the Government's Poverty Eradication Action Plan, showed how the criminal justice system was failing to provide an adequate service, particularly to the poor. Earlier efforts to reform the commercial justice system are accordingly being developed into a sector-wide approach starting with criminal justice reforms.
- The Government has proposed a multi-agency, multi-donor partnership to develop a strategic plan for the sector. A Sector-Wide Budget Framework Paper has been produced by a working group consisting of representatives from all the institutions in the sector. These include the police, prosecution, judiciary, prison service, Ministry of Justice, Ministry of Internal Affairs, Law Reform Commission and Judicial Services Commission. This was followed by a joint sector statement to the Consultative Group of donors. Both documents emphasise that the developing sector-wide approach is necessary for successful reform and to prioritise financing.
- Various donors including the Netherlands, Ireland, Norway, Sweden, Austria and the UK are collaborating with the Government in the preparation of the criminal justice sectoral reform programme. These donors will provide financial support to the development of a strategic plan through a consolidated fund. It is intended that this will lead to more substantive collaboration and budgetary support to the sectoral reform programme once established.

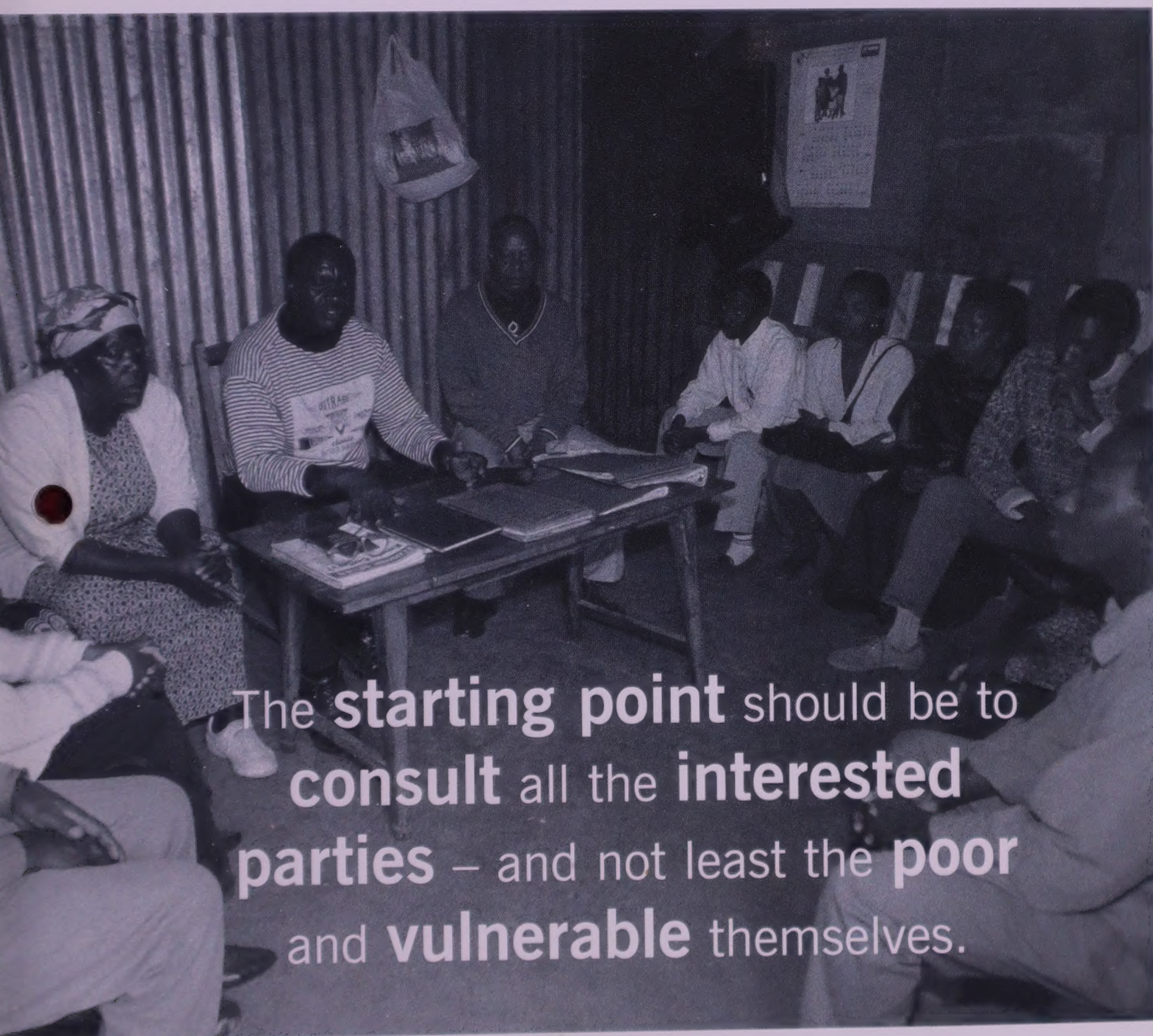


system. For example, improving the efficiency of the police may lead to the arrest of more suspects, but with an unreformed remand system and sluggish courts it will also lead to bigger court backlogs, longer remands and worse overcrowding in prisons.

- **Collaboration between donors and governments:** Development assistance will be more effective if it is organised to support a coherent set of objectives and policies to which the government is committed. Donors should where possible

pool resources to finance implementation of sector-wide reform, where there is sufficient local commitment to this objective. In Uganda, a new initiative is underway which demonstrates this approach (see box below).

The following sections describe the challenges facing governments and the kind of actions they can take to improve firstly, safety and security and secondly, access to justice.



The **starting point** should be to **consult** all the **interested parties** – and not least the **poor** and **vulnerable** themselves.



Safety and security

A lack of safety and security directly affects the welfare of poor people. It can cause injury and death, reduce family income and generate a climate of fear. Improving safety and security involves measures to prevent crime, as well as responding effectively when it happens. Communities, the police and other agencies all have to be involved throughout.

Crime Prevention

Crime prevention is up to eight times more cost-effective in reducing crime than reactive measures⁹. Prevention means reducing the opportunities for crime, for example through neighbourhood watch schemes. It is also about addressing the risk factors such as youth unemployment, or the availability of firearms and drugs. Effective basic services including housing, education and health can also help to

tackle the underlying causes of crime and violence. Partnerships are needed between the police and other agencies. The involvement of municipal authorities, for example in safer city projects, can be crucial.

Effective prevention requires effective policing: when the police offer no real deterrence, crime prevention strategies are also likely to have limited impact. →

Urban Safety and Security, Jamaica

Poor people's access to physical security, police protection and justice has completely broken down in parts of urban Jamaica which are under the control of armed gangs.

Making urban communities safer has been a priority issue for the Jamaica Urban Poverty Project, supported by DFID.

The project is being piloted in Jones Town, a deprived inner-city district in Kingston. The police acting alone have not been able to provide law and order. Agencies outside the criminal justice sector have therefore been asked what they can do to help prevent crime.

Examples of actions taken by these agencies include:

- community farm projects for urban youth
- inter-community sports festivals to strengthen peace initiatives between rival communities
- improving streetlighting in crime-vulnerable areas
- putting up street signs so that when the police need to get to a troublespot quickly they can find it easily
- homework classes for children so they can do their homework under supervision, in a quiet and safe environment.

In the first year of the project, the rate of violent crime has been cut by 37%. Resident perception studies have shown that women and children feel safer to walk the streets again, local business activity has improved, there is increased demand for and investment in housing and a more trusting relationship with local police. As a result, the project has now been rolled out to ten other inner-city communities.



Building a more professional police service – Kiran Bedi, India's first female police officer, is now head of training.



Professional policing means safeguarding the most vulnerable groups such as women and children.

Community Policing

Community participation is often key to effective policing. The people who live and work in an area are best placed to identify the problems facing them and possible solutions to those problems.

Community policing initiatives, which provide mechanisms for consultation and co-operation between the police and the public, have been shown to help tackle rising rates of crime.

Community policing is one model of policing which offers the scope for positive change. However broader conditions underlie the formation of a professional, independent police service working on behalf of society as a whole.

Community Policing, Malawi

A police reform project in Malawi aims to improve safety and security, especially for the rural poor.

Its purpose is to use community policing initiatives to prevent and reduce crime and the fear of crime. The principles supporting this process include regular local consultation between the police and the community, joint problem solving and joint action.

Examples of project activities include:

- the training of community police officers
- the establishment of community policing pilot sites to test and design a national community policing model
- the establishment of community/police consultative groups to identify concerns and policing needs as well as to provide a police accountability mechanism
- establishing linkages to traditional community systems e.g. village heads
- the implementation of joint police/community patrols
- the establishment of local crime prevention panels and joint police/community approaches to the prevention of crime.

During a recent review villagers at two pilot sites indicated that crime and the fear of crime had been reduced and relations with police had improved. As one village head man said, "we are now able to sleep at night without the fear of harassment".



Community policing in action, South Africa



Family Protection, Jordan

The Family Protection Project aims to combat domestic violence, child abuse and sexual assault.

One of its objectives is to improve police treatment of victims. It does this through:

- a programme to sensitise the police and to mainstream a victim-centred approach to family violence in all its forms
- discussions to agree common definitions of sexual abuse, child abuse and domestic violence
- the establishment of a model Family Protection Unit (the first of its kind in the Arab world) within the police
- the creation of 'at risk registers' to alert police and others
- the use of systems to ensure that victims receive sensitive treatment
- the implementation of joint-agency training for the police and others
- an ongoing information campaign to raise social awareness about family protection issues.

Early indications are that the model Unit has encouraged more women to report incidents of domestic violence. In its first 20 months of operation, the Unit received 762 cases which represents a 60% increase in the number of domestic violence cases reported.

A Professional Police Service

Police treatment of vulnerable groups is an important aspect of safety and security, including the extent to which they protect women and children against domestic violence and sexual abuse. A project in Jordan seeks to address these issues.

Given the risks that the police will abuse their powers, issues of transparency and accountability are as important as issues of efficiency and effectiveness. A professional police service is built on the following elements:

- adequate budgets and safeguards from improper political interference, so that the police can be held accountable for their performance;
- investigative skills and equipment so that the police can build cases on evidence rather than on confessions;
- relevant and practical human rights training to improve police treatment of vulnerable groups;
- effective accountability systems and redress mechanisms such as independent complaints commissions, ombudsmen and civil society organisations representing the public in their dealings with the police.

Improving Safety and Security, Bangladesh

A justice sector-wide assessment in Bangladesh emphasised the need to improve the protection of poor people by the police.

This led to the design of an initiative aimed at improving policing at the local level. This focus offers an entry point to begin addressing problems in the justice sector more widely.

The project involves: (1) community participation in policing at the local (Thana) level; and (2) strategic reforms in the Bangladesh Police Service designed to make it more service-orientated.

Project activities include:

- the use of public attitude and user surveys to generate public awareness and improve accountability
- joint police-public problem solving on issues such as victim support
- establishment and/or strengthening of police community forums
- the use of an Accessible Justice Fund, open to government and non-government organisations, for local level innovations or national strategic initiatives
- training and technical assistance to enhance police capacity for data collection, research, and policy analysis.

The success of this initiative will be monitored through public perception surveys or 'report cards' on policing in the pilot Thanas.



Fingerprinting by police, Central Africa

Investigative skills and **equipment**
help the police to **build cases on**
evidence rather than on **confessions**





Access to justice

Access to justice means that where people do need help, there are effective solutions available. Justice systems which are remote, unaffordable, delayed, or incomprehensible to ordinary people effectively deny them legal protection.

In developing countries the law is often discriminatory and legal processes are expensive, slow and complex. The result is that people, and particularly poor people, have inadequate and unequal access to justice through the formal legal system. For these reasons, they tend to rely much more on customary justice systems, but these can be discriminatory. Improving access to justice requires that both formal and customary systems be made to work justly and equitably.

Improving access to justice also means more than reforming legal procedures. It can also mean law reform, making courts more user friendly, improving customary systems and improving the treatment of offenders.

A fair and equitable legal framework

There can be many reasons why poor people are unable to use the law to obtain the protection to which they are entitled. Sometimes laws are not framed in their favour. For example, in South Asia many laws contain provisions which discriminate against poor people and/or women. They were not designed to enhance government accountability or promote citizen rights. Poor people are unlikely to know what their rights are or be able to pay for legal advice or representation. Actions to improve the legal environment for poor people include:

- law reform which removes discriminatory provisions and incorporates rights conforming with international standards
- promoting the use of public interest litigation by advocacy groups and others to challenge the legality of discriminatory government measures
- paralegal schemes offering assistance and advice
- improved access to legal aid so that poor people can afford legal representation
- practical, problem-based legal rights education which helps poor people to protect their livelihoods.

Courts which are accessible and dispense justice speedily

Courts are often inaccessible. They are usually located in towns away from the rural poor and use languages and procedures which are difficult for them to understand. Many are run inefficiently. Criminal cases can take years to proceed from arrest to trial. The sheer volume of cases pending across the system can bring it to a state of near paralysis. Courts can be made more accessible and provide a better service through:

- the use of local languages
- allowing people to give evidence in narrative form
- appointing people from the community to sit as lay magistrates



First steps –
a People's Court
in session,
Rangpur, India.



A member of a
women's rights
association in Azerbaijan
gives legal advice.

- establishing mobile courts to service rural communities
- providing information about the courts to the public
- improving case-flow management by computerisation of court records and strengthening court administration
- awareness-raising for judges in new developments affecting juvenile justice, alternatives to prison etc.
- better co-ordination between courts and other agencies (see box below).

Improved customary justice systems and a greater role for alternative dispute resolution

In many developing countries, traditional or customary legal systems account for 80% of total cases. They are usually better attuned to the needs of local communities. However, the danger is that such systems do not always protect the rights of the poorest and most vulnerable members of society.

Customary justice systems will work more effectively if measures are taken to encourage:

Improving Access to Courts, Uganda

In Uganda, the logjam of cases in the courts constitutes a major obstacle to poor people's access to justice. Delays in administering justice are chronic. For example, in one magistrate's court over a nine-month period, only a single case was disposed of.

The Government initiated the 'Chain Linked' programme in Uganda, which aims to cut delays in the Masaka Magisterial Area. The programme is supported by several donors including DFID.

Ineffective communication and coordination between the criminal justice agencies is the main cause of delay. Now a Case Management Committee comprising senior local representatives of the various agencies, such as police, probation, prosecution, prisons, magistracy and judiciary, meets on a monthly basis. It identifies the causes for delay in specific cases, agrees solutions with the institution concerned and monitors implementation and impact of the agreed action.

Action taken to cut delays includes:

- better control of case files
- statistical reports to identify bottlenecks
- trials held on consecutive days to reduce adjournments
- steps to encourage better witness attendance.

In the first year, the number of cases disposed of has tripled and the project will now be rolled out nationally.





Improving Traditional Justice, Bangladesh

'Shalish' is a traditional system of dispute resolution used in Bangladesh which often fails to offer fair treatment to women and other disadvantaged groups. In practice, it is a loud and passionate event which is generally open to the whole community but is largely male-dominated. The treatment of women is often discriminatory.

In an attempt to address this short-coming, the Madaripur Legal Aid Association is organising village-level mediation committees on which women are represented. Funding is provided to train women to sit on these committees. Measures are also being taken to educate communities about domestic violence as well as to encourage women to participate in hearings. This type of training is being rolled out by other NGOs in Bangladesh and for the first time women have a voice in community justice.

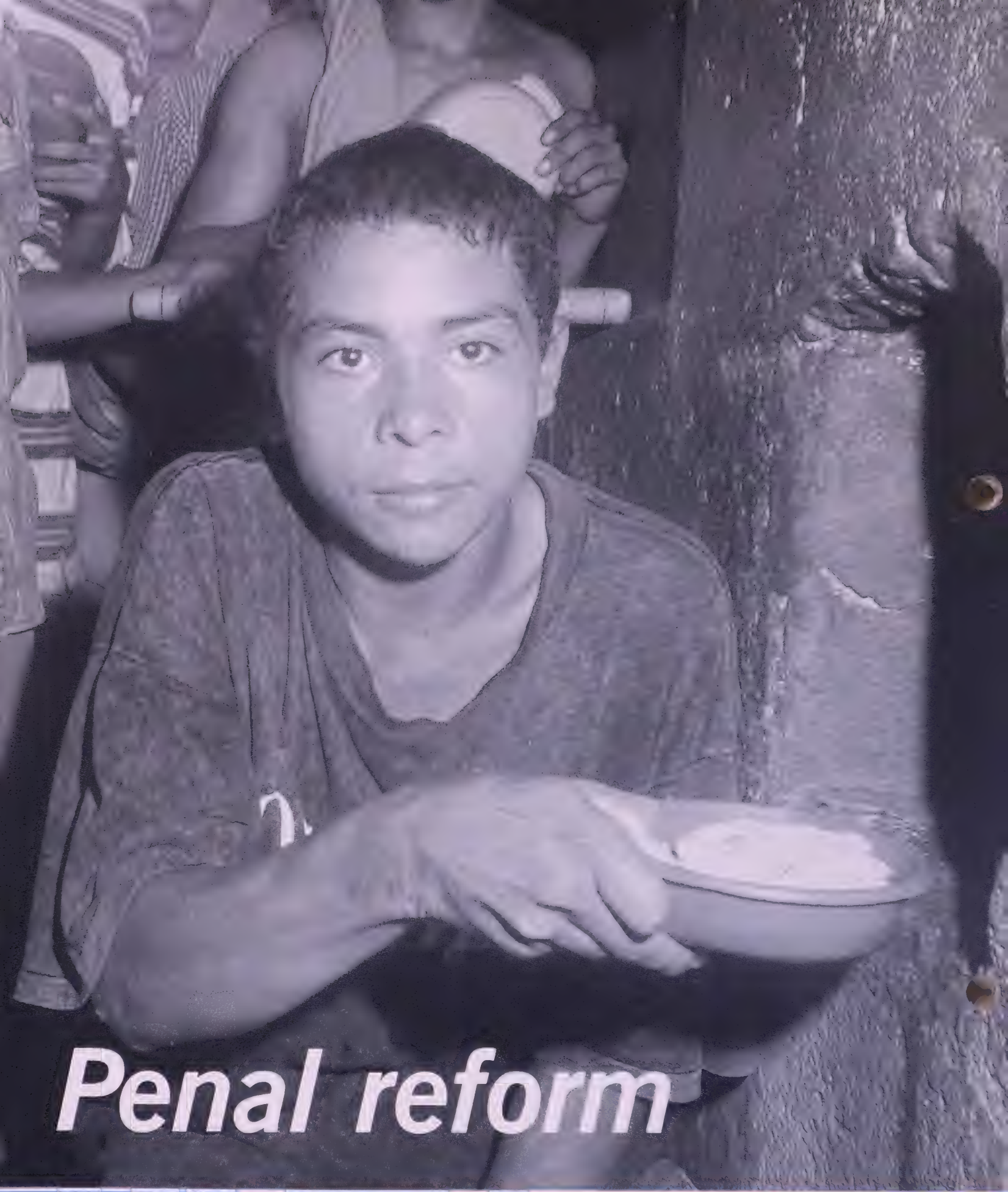
MLAA reports that disputes are successfully resolved in 80% of its cases.

- customary systems to operate more fairly e.g. by providing paralegal representation
- awareness-raising in human rights for traditional leaders
- customary systems to work more effectively with the formal system, e.g. in some cases the formal courts could hear appeals from the customary courts
- measures to make traditional forums more representative of the community as a whole and to encourage participation of women in proceedings.

In some circumstances, it is necessary to go to court, but for most people, most of the time, litigation should be a last resort. There is also a

range of alternatives to litigation which can be used to resolve disputes, for example in family or commercial matters. These include:

- arbitration, where the arbitrator's decision is binding, but the process is quicker and cheaper than going to court
- mediation, in which a mediator facilitates an acceptable agreement between the parties. This can also provide the basis for a more constructive relationship in the future
- tribunals, which decide cases brought before them on a less formal basis than the courts, free from strict rules of evidence and procedure.



Penal reform

Prison conditions in most developing countries are appalling. The prison system is often corrupt, oppressive and abusive, especially of juveniles and women. Prison staff are often unqualified and unprofessional. They are rarely exposed to human rights principles.

Imprisonment is generally accepted to be ineffective in reducing repeat offending.

In most developing countries 80% of the prison population consists of those awaiting trial, sometimes for many years.

Sentences which put reparation before retribution, and alternatives to prosecution and prison, are more humane and cost-effective.

There is an urgent need to decongest prisons and improve conditions in line with minimum international standards". Improvements can

be made by:

- reviews of sentencing policy so that people are not sent to prison for minor offences
- the use of community service, suspended sentences, cautions etc. for less serious offences and decriminalisation of the most minor offences
- the use of approved schools for juvenile offenders and the segregation of children from adults in prison
- the use of bail for those awaiting trial
- improvements in prison conditions eg through prison farms, open prisons and better disease control, including the spread of TB and HIV/AIDS.

Supporting Community Service, Zimbabwe

A scheme was started in Zimbabwe in 1992 in response to a rapidly rising prison population and costs. 60% of convicted prisoners in Zimbabwe were serving sentences of 3 months or less. A National Committee was set up which recommended the use of community service. The EU and DFID funded a pilot scheme.

From inception in 1992 to June 1998 over 21,000 community service orders had been made on offenders who otherwise would have been sent to prison for up to one year. Offenders do practical work of benefit to the community in a social welfare organisation such as a school, hospital or old people's home, or on an environmental work placement. The re-offending rate is only 6%. Costs per offender per month are \$20 for community service against \$120 for prison. The prison population, which had been rising, has been reduced from 22,000 to 18,000 in spite of rising levels of crime.

The scheme has secured public approval through its visible results. The demand for 'placements' now outstrips supply. The Zimbabwean Government has taken on the funding and extended the project to encompass early release of similar offenders from prison. All aspects of supervision are managed by local magistrates and allow links with the community to be maintained or developed.

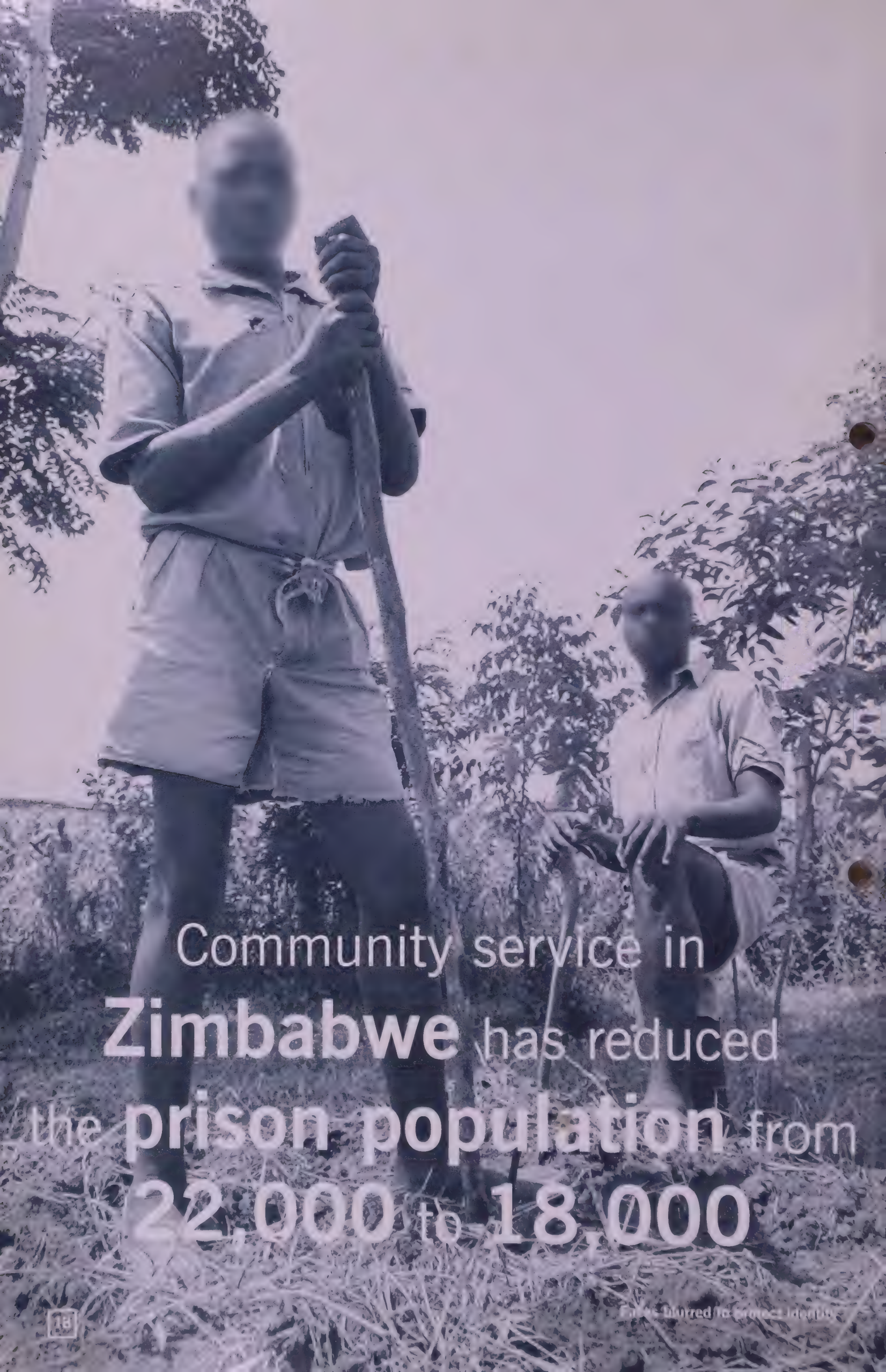
As a result, similar schemes are now being introduced in several other African countries.



Prisoners benefit from being taken out of prison, learning new trades and having their dignity restored.



Rehabilitation programmes such as this one for former prisoners in East Africa can help to reduce crime.



Community service in
Zimbabwe has reduced
the **prison population** from
22,000 to 18,000

Wider challenges

The reform of law and order and justice systems is only possible if governments – and the public at large – accept that reform is necessary and important. This will require debate on these issues. Such debate should be led within countries. But the international development community has a role to play in facilitating the dialogue and supporting civic awareness programmes, for example on penal reform.

Another related challenge is the chronic under-resourcing typically experienced by this sector. Affordable strategies to address these problems would be facilitated by effective systems relating budgetary allocations, and donor support, to sector reforms.

An effective judiciary requires freedom from political interference to ensure impartiality in the delivery of judicial decisions. In some countries political patronage in judicial appointments and interference in judicial proceedings is a problem. Measures to buttress judicial independence include: transparent criteria for the selection, promotion and removal of judges administered by an independent body; security of tenure; and improved standards of professionalism in the judiciary.

Another serious challenge is to root out corruption in this sector which is often worse than in other areas. In this regard, judicial independence can also be abused in order to deter investigation and action. Corruption is a denial of justice. Where it is prevalent, the integrity and impartiality of the police and courts is compromised and the whole legal system is brought into disrepute. Commitment by the heads of the government, the police and

the judiciary is essential to combat corruption. Possible actions include:

- improving pay and conditions
- strengthening the transparency and accountability of the courts and police through court users committees, lay visitor schemes, etc.
- establishing and strengthening oversight mechanisms such as police complaints commissions
- removing responsibility for court administration from judges
- strengthening capacity to investigate and prosecute offences.

DFID policy and resources

DFID is ready to consider support for programmes of reform in this sector. It is already supporting the projects described in the boxes.

Decisions on engagement by DFID will be taken on a country-by-country basis, and on the basis of local commitment to take effective action and to pursue reform in the context of poverty eradication objectives.

The development and implementation of DFID's policy is led by its Governance Department and its regional and country programmes. **For further information please contact the Chief Governance Adviser, Governance Department, DFID, 94 Victoria Street, London SW1E 5JL, UK.**
Email: r-wilson@dfid.gov.uk
Phone: (+44) (0) 20 7917 0242
Fax: (+44) (0) 20 7917 0074

End notes

¹ November 1997

² June 2000

³ Earlier Policy Statements, *Conflict reduction and humanitarian assistance* and *Poverty and the security sector*, deal respectively with DFID's role in relation to war, civil war and natural disasters, and in relation to the military, paramilitary and intelligence services. References to 'safety and security' in this Policy Statement refer to the mainstream justice sector (see footnote 8 below for a definition).

⁴ International Centre for the Prevention of Crime (1999).

⁵ Shaw and Louw: *Crime in Post-Apartheid South Africa: Extent, Impact and Responses*, Institute for Security Studies (1998)

⁶ A World Bank study of local entrepreneurs in sixty-nine countries found that states with 'high levels of crime and personal violence and an unpredictable judiciary' are not credible with investors.

⁷ *Crime and Violence as Development Issues in Latin America*, World Bank (1998).

⁸ The 'sector' can include: customary and traditional justice systems, judiciaries, 'modern' alternatives for dispute resolution, legislatures, law commissions, other (e.g. human rights) commissions, the police, prison and prosecution services, agencies responsible for non-custodial sentences, lawyers, paralegals and Civil Society Organisations/NGOs active in the field.

⁹ *Work Programme of the National Crime Prevention Centre*, South Africa Department of Safety and Security

¹⁰ "The number of prisoners we have in our jails cannot allow for any meaningful rehabilitation to take place. This explains the rather high incidence of recidivism in Kenya. The current situation simply makes some criminals actually turn into hard-core type of criminals. Short-term convicts mingle with long-term convicts learning from the latter how to introduce sophistication and improve on their criminal activities": Hon. Amos Wako (Kenya's Attorney General) addressing the symposium on Extra Mural Penal Employment held in Nairobi in December 1995. Quoted in *Prison Conditions in Africa: Report of a Pan-African Seminar* (PRI, October 1997).

¹¹ International standards include the *UN Standard Minimum Rules for the Treatment of Prisoners* 1957; the *UN Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules)* 1985; *UN Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines)* 1990; the *UN Minimum Rules for Non-Custodial Measures (the Tokyo Rules)* 1990; and the *UN Rules for the Protection of Juveniles Deprived of their Liberty* 1991.

¹² 60% of the prison population of the world are serving sentences of less than one year. Source: *A New Agenda for Penal Reform*, International Penal Reform Conference 1999.

Department for International Development

The Department for International Development (DFID) is the British government department responsible for promoting development and the reduction of poverty. The government elected in May 1997 increased its commitment to development by strengthening the department and increasing its budget.

The policy of the government was set out in the White Paper on International Development, published in November 1997. The central focus of the policy is a commitment to the internationally agreed target to halve the proportion of people living in extreme poverty by 2015, together with the associated targets including basic health care provision and universal access to primary education by the same date.

DFID seeks to work in partnership with governments which are committed to the international targets, and also seeks to work with business, civil society and the research community to encourage progress which will help reduce poverty. We also work with multilateral institutions including the World Bank, UN agencies and the European Commission. The bulk of our assistance is concentrated on the poorest countries in Asia and Sub-Saharan Africa. We are also contributing to poverty elimination in middle income countries, and helping the transition countries in Central and Eastern Europe to enable the widest number of people to benefit from the process of change.

As well as its headquarters in London and East Kilbride, DFID has offices in New Delhi, Bangkok, Nairobi, Harare, Kampala, Dar-Es-Salaam, Pretoria, Dhaka, Suva, Kathmandu and Bridgetown. In other parts of the world, DFID works through staff based in British Embassies and High Commissions.

DFID
94 Victoria Street
London
SW1E 5JL
UK

DFID
Abercrombie House
Eaglesham Road
East Kilbride
Glasgow
G75 8EA
UK

Switchboard: 020 7917 7000
Fax: 020 7917 0019
Website: www.dfid.gov.uk
email: enquiry@dfid.gtnet.gov.uk
Public Enquiry Point 0845 3004100 (local call rate)

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